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tract had been induced by fraudulent representations held for the jury.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 437.]

Error to Circuit Court of City of Norfolk.

J. Edward Cole, of Norfolk, for plaintiff in error.

Jas. G. Martin, of Norfolk, for defendant in error.

WASHINGTON-VIRGINIA RY. CO. *v.* STRUDER.

March 16, 1922.

[111 S. E. 239.]

1. Railroads (§ 316 (2)*)—Speed Ordinance Inapplicable to Street Terminating at Track.—A city ordinance prohibiting the operation of trains over grade crossings at more than five miles an hour and requiring warning signals is not applicable at a point where there was no grade crossing, but the street ended at the railroad track, and only a cinder path led therefrom to the station platform on the other side of the track.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 613.]

2. Railroads (§ 348 (4)*)—Negligence in Failing to Have Headlights Held Not Shown.—A charge that an electric railroad company was negligent in failing to have headlights on the train which struck decedent is not sustained where the motorman's testimony that the lights were burning was contradicted only by testimony they were not burning when the train was still 1,000 feet from the place of the accident, and where it was still daylight, so that no lights were necessary.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 744.]

3. Carriers (§ 305 (2)*)—Failure to Have Station Lighted Held Not Cause of Accident.—Negligent failure of an interurban railroad company to have its station lighted does not impose liability for the death of a passenger who was killed in attempting to cross the track to the platform on the opposite side from the station, where there was no showing that the absence of station lights in any way contributed to the accident.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 568.]

4. Trial (§ 156 (3)*)—Demurrer to Evidence Admits Truth of Adverse Party's Evidence and All Inferences Therefrom.—A demurrer to the evidence admits the truth of all the adverse party's evidence and all just inferences that can be properly drawn therefrom, and waives all the demurrant's evidence which conflicts with that of his

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

adversary or which has been impeached and all inferences from his own evidence which do not necessarily result therefrom.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 523.]

5. Evidence (§ 588*)—Testimony of Motorman Held Not Impeached.—The testimony of the only eyewitness, the motorman of an interurban train which struck decedent, is not impeached by the fact that he testified decedent was thrown right down the track, while another witness testified he saw what he thought was a bundle of rags fly out of the car in the air, and by the motorman's testimony that he did not hear decedent groan after she was struck, though other witnesses did hear her.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 354.]

6. Carriers (§ 346 (1)*)—Evidence Held to Show Contributory Negligence of Intending Passenger in Crossing Track without Looking.—Evidence that an intending passenger crossed an interurban railroad track to reach the station platform where she intended to take a car without looking for a car approaching on the first track, though she was familiar with the situation and with the schedules of the cars, and could have seen down the track 280 feet before she stepped on it, held to show contributory negligence as a matter of law.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 708.]

7. Carriers (§ 327*)—Circumstances Held Not to Warrant Assumption No Train Was Approaching.—Where there was no evidence that there was a train immediately preceding the interurban train which killed decedent, and no other unusual circumstances to warrant a belief no train was approaching, it was contributory negligence for an intending passenger to attempt to cross the track without looking for an approaching train.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 708.]

8. Carriers (§ 327*)—Passenger Going to Station Must Exercise Ordinary Care to Avoid Injury by Trains.—Though an intending passenger going to a railroad station may rely on the railroad company to use ordinary care to protect her against injury by its trains, the passenger owes the corresponding duty to use ordinary care to protect herself, and the failure to use such care on her part is negligence.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 707.]

Error to Circuit Court, Arlington County.

Action by James A. Struder, administrator of Julia Delia Struder, deceased, against the Washington-Virginia Railway Company. Judgment for plaintiff, and defendant brings error. Reversed, and judgment entered for defendant.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

Carlin, Carlin & Hall and *Geo. B. Vest*, all of Alexandria, for plaintiff in error.

Edmund Burke, of Washington, D. C., for defendant in error.

VIRGINIA RY. & POWER CO. *v.* DRESSLER.

March 16, 1922.

[111 S. E. 243.]

1. Carriers (§ 320 (1*))—Whether Place of Accident Was Proper Transfer Point for Injured Passenger Held for the Jury.—Whether the place of an accident was a proper transfer point for an injured passenger, notwithstanding the regulations of street railway company to the contrary, held to be a question for the jury.

2. Carriers (§ 269*)—Street Car Passenger Can Assume Transfer Given without Comment Was the One Called for.—Where a passenger asked a street car conductor for a transfer from a given point for a given direction, and he punched a transfer and handed it to her without objection or comment, she had the right to assume that the conductor had complied with her request, and that the transfer was one that she could use,

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 698.]

3. Carriers (§ 320 (2*))—Whether Person Transferring to Another Street Car Is a Passenger Is Question of Law if Facts Are Undisputed.—The question whether a person, while in the street for the purpose of transferring from one street car to another, is a passenger, is a question of law where the facts are undisputed, so that it was error to submit such question to the jury.

4. Courts (§ 107*)—General Expressions in Opinion Are to Be Taken in Connection with the Case in Which They Are Used.—In determining the authority of precedents, general expressions used in an opinion are to be taken in connection with the case in which they are used, and, though such expressions are entitled to respect, they are not controlling.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 694.]

5. Carriers (§ 247 (5*))—Person Transferring to Another Street Car Is Not a Passenger after Reaching Place of Safety.—A person who has alighted from a street car for the purposes of transferring to another car and has reached a place of safety on the highway or the sidewalk, so that the street car company has no control over her movements or over provisions for her safety, is not a passenger to whom the street car company owes the high degree of care of a

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